

E-FILED on 4/20/12

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

TRACEY THOMPSON,

Plaintiff,

v.

MANAGER OF LIVE 105.3 RADIO,

Defendant.

No. 11-5254 RMW

ORDER DISMISSING COMPLAINT WITH
LEAVE TO AMEND AND DEFERRING
DECISION ON MOTION FOR LEAVE TO
FILE IN FORMA PAUPERIS

[Re Docket Nos. 1, 2]

On October 28, 2011, plaintiff Tracey Thompson ("plaintiff"), proceeding *pro se*, filed a one-page, handwritten complaint against the "Manager of Live 105.3 FM Radio" alleging claims related to "death threats" made by radio disc jockeys and the purported theft of the "advertising slogan called Surround Sound." Dkt. No. 1. Plaintiff simultaneously filed a motion for leave to proceed *in forma pauperis*. See Dkt. No. 2.

An *in forma pauperis* complaint is subject to mandatory screening by the court. See *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc). Pursuant to 28 U.S.C. § 1915(e)(2)(B), such a complaint must be dismissed *sua sponte* if the court determines that it is "frivolous," or "fails to state a claim on which relief may be granted." See *Lopez*, 203 F.3d at 1127; see also *Calhoun v. Stahl*,

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254 F.3d 845, 845 (9th Cir. 2001) (per curiam) ("[T]he provisions of 28 U.S.C. § 1915(e)(2)(B) are not limited to prisoners." (citation omitted)).

In this case, plaintiff's brief complaint fails to state any constitutional or statutory ground for relief, nor does it allege any basis for this court's jurisdiction. In addition, it fails to include sufficient factual matter to state a plausible claim. *See Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009); *Barren v. Harrington*, 152 F.3d 1193, 1195 (9th Cir. 1998) (affirming dismissal under Section 1915 because plaintiff's third amended complaint "offered no more than conclusory allegations that the defendants were involved in a conspiracy to deprive him of his constitutional rights").

Accordingly, the court dismisses plaintiff's complaint with leave to amend. If plaintiff wishes to file an amended complaint including additional facts explaining the nature of defendant's alleged misconduct and a statutory or constitutional basis for relief, she must do so within thirty days of the date of this order. The court defers a decision on plaintiff's motion for leave to file *in forma pauperis* until it determines whether she can state a plausible claim for relief.

It is so ordered.

DATED: 4/20/12


RONALD M. WHYTE
United States District Judge

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